



JOHN J. TECKLENBURG
MAYOR

City of Charleston
South Carolina
Clerk of Council Department

VANESSA TURNER MAYBANK
CLERK OF COUNCIL

NOTICE OF MEETING

A meeting of the Committee on Real Estate will be held beginning at 3:30 p.m., December 19, 2017, at City Hall, 80 Broad Street, First Floor Conference Room. The agenda will be as follows:

AGENDA

Invocation – Councilmember Waring

Approval of Minutes: December 11, 2017 (*Deferred*)

a. Request approval for the Mayor to execute:

- (i) on behalf of the City a Quitclaim Deed to the Commissioners of Public Works [Ordinance], and
- (ii) The Commissioners of Public Works Quitclaim Deed to the City to correct a deed transfer contemplated in the 2015 Memorandum of Understanding between the City and CPW relating to a parcel SCDOT transferred to the City which contains CPW infrastructure

(Grace Bridge Street and Morrison Drive; a portion of both: 459-06-01-072 and 459-06-01-071)

The property is owned by the City of Charleston.

b. Request approval to execute:

- (i) the First Amendment to Lease Agreement with Charleston Digital Corridor extending the lease initial term and extended terms, and to allow for an increase in square footage and parking [Ordinance]
- (ii) the License Agreement whereby the City will temporarily use property leased to Charleston Digital Corridor for a park-and-ride facility

(999 Morrison Drive; TMS: 461-13-01-038)

The property is owned by the City of Charleston.

- c. Request approval to execute the Temporary License Agreement for Park and Ride Operation whereby CARTA will operate a park and ride parking lot and provide shuttle service to and from 999 Morrison Drive and the Central Business District (999 Morrison Drive: TMS: 461-13-01-038)
- d. Request approval to execute the First Amendment to Public Infrastructure Improvements Agreement whereby extending the notice period when Ashley River Investors, LLC may terminate the current lease from 45 days to 36 months prior to the effective date of termination. The property is owned by the City of Charleston. [Ordinance]
- e. Request approval to execute the First Amendment to the Magnolia Development Agreement to include Ashley I, Ashley II, and the ARI Affiliates as parties to the Development Agreement, to reflect the current Property Owners with respect to the Magnolia Property, update the Development Schedule, reset the Commencement Date, and clarify certain other matters included in the Development Agreement. [Ordinance]

(TMS: 464-00-00-012, 464-00-00-029, 466-00-00-019, 466-00-00-028, 466-00-00-029, 466-00-00-030, 466-00-00-031, 466-00-00-035, 466-00-00-036, 466-00-00-049, 464-00-00-025, 464-00-00-026, 464-00-00-028, 464-00-00-039, 464-00-00-040, 464-13-00-013, 464-13-00-012, 464-13-00-011, 464-00-00-008, 464-13-00-023, 466-00-00-016, 466-00-00-017, 466-00-00-018, 466-00-00-032, 466-00-00-033, 466-00-00-034, 466-00-00-037, 466-00-00-044, 466-00-00-046, 466-00-00-051, 460-00-00-002, 466-00-00-021, 464-14-00-136 and 464-00-00-019)

- f. Consider the following annexation:

1 Riverdale Drive (TMS#418-14-00-080) 0.26 acre, West Ashley (District 11). The property is owned by Maho Holdings LLC.

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.

a.)

REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Colleen Carducci DEPT: BFRC

ADDRESS: Grace Bridge Street and Morrison Drive

TMS: A portion of both: 459-06-01-072 and 459-06-01-071

PROPERTY OWNER: City of Charleston

Request approval for the Mayor to execute

- a) On behalf of the City a Quitclaim Deed to the Commissioners of Public Works, and
- b) The Commissioners of Public Works Quitclaim Deed to the City

ACTION REQUEST: to correct a deed transfer contemplated in the 2015 Memorandum of Understanding between the City and CPW relating to a parcel SCDOT transferred to the City which contains CPW infrastructure.

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|-------------------------|-------------------------------------|
| Department Head | _____ | <input type="checkbox"/> |
| Legal Department | <u>Francis J. Cantu</u> | <input type="checkbox"/> |
| Chief Financial Officer | <u>Amy Wharton</u> | <input type="checkbox"/> |
| Director Real Estate Management | <u>Colleen Carducci</u> | <input checked="" type="checkbox"/> |
| _____ | _____ | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes ☐ No ☒

If yes, was funding previously approved?* Yes ☐ No ☐

*If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

***Commercial Property and Community & Housing Development have an additional form.**

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Colleen Carducci DEPT: BFRC

ADDRESS: Grace Bridge Street and Morrison Drive

TMS: A portion of both: 459-06-01-072 and 459-06-01-071

PROPERTY OWNER: City of Charleston

Request approval for the Mayor to execute

- a) On behalf of the City a Quitclaim Deed to the Commissioners of Public Works, and
- b) The Commissioners of Public Works Quitclaim Deed to the City

ACTION REQUEST: to correct a deed transfer contemplated in the 2015 Memorandum of Understanding between the City and CPW relating to a parcel SCDOT transferred to the City which contains CPW infrastructure.

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

ACTION: What action is being taken on the Property mentioned?

☒ **ACQUISITION** Seller (Property Owner) City/CPW Purchaser City/CPW

☒ **QUITCLAIM DEED**

TRANSFERS: Facilitating exchange of deeds in accordance with MOU approved by City Council in July 21, 2015.

☐ **FORECLOSURE**

Terms: _____

☐ **PURCHASE**

Terms: _____

☐ **CONDEMNATION**

Terms: _____

☐ **OTHER**

Terms: _____

☐ **SALE** Seller (Property Owner) _____ Purchaser _____

☐ **NON-PROFIT ORG, please name** _____

Terms: _____

COMMERCIAL REAL ESTATE FORM

☐

OTHER

Terms: _____

☐

EASEMENT

Grantor
(Property Owner)

Grantee

☐

PERMANENT

Terms: _____

☐

TEMPORARY

Terms: _____

☐

LEASE

Lessor: _____

Lessee: _____

☐

INITIAL

Terms: _____

☐

RENEWAL

Terms: _____

☐

AMENDMENT

Terms: _____

☐

Improvement of Property

Owner: _____

Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes ☐ No ☐ N/A ☒

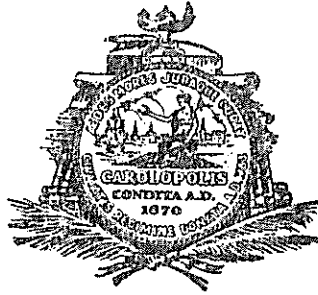
Results: _____

Signature: _____

Robert C. Cindusci
Director Real Estate Management

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

NEED: Identify any critical time constraint(s).



Ratification
Number _____

AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY A QUITCLAIM DEED TO THE COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF CHARLESTON PERTAINING TO THAT CERTAIN PROPERTY DESIGNATED AS "REVERTER PARCEL AS DEFINED BY C,H,I,J,D,C 0.164 ACRES" AND SHOWN AS CONTAINED BETWEEN THE LINES RUNNING BETWEEN THE POINTS DESIGNATED C, H, I, J, D AND C ON A PLAT ENTITLED "PLAT SHOWING THE PROPERTY LINE ADJUSTMENT TMS PARCEL 459-06-01-072 & 459-06-01-071 AND NEW REVERTER PARCEL GRACE BRIDGE STREET & MORRISON DRIVE CITY OF CHARLESTON CHARLESTON COUNTY, S.C." BY LEWIS SMITH MOORE, P.L.S. NO. 21621, DATED FEBRUARY 9, 2017, REVISED OCTOBER 23, 2017 OF RECORD IN THE RMC OFFICE FOR CHARLESTON COUNTY, SOUTH CAROLINA AND ALSO THAT CERTAIN PROPERTY CONTAINED BETWEEN THE LINES RUNNING BETWEEN THE POINTS DESIGNATED S, C, D, E AND S ON THE AFOREMENTIONED PLAT.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City a quit-claim deed to the Commissioners of Public Works of the City of Charleston, pertaining to that certain property designated as "REVERTER PARCEL AS DEFINED BY C,H,I,J,D,C 0.164" and shown as contained between the lines running between the points designated as C, H, I, J, D and C on a plat entitled "PLAT SHOWING THE PROPERTY LINE ADJUSTMENT TMS 459-06-01-072 & 459-06-01-071 AND NEW REVERTER PARCEL GRACE BRIDGE STREET & MORRISON DRIVE CITY OF CHARLESTON CHARLESTON COUNTY, S.C." by Lewis Smith Moore, P. L. S. No. 21621, dated February , 2017, revised OCTOBER 23, 2017 and being of record in the RMC Office for Charleston County, South Carolina, an also that certain property

contained and between the lines running between the points designated S, C, D, E and S on the aforementioned plat, a copy of said quitclaim deed being attached to this Ordinance and made a part hereof.

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of
_____ in the Year of Our Lord, 2018,
and in the ____th Year of the Independence of
the United States of America

John J. Tecklenburg, Mayor

ATTEST:

Vanessa Turner Maybank,
Clerk of Council

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

QUITCLAIM DEED

WHEREAS, the South Carolina Department of Transportation conveyed certain property to the City of Charleston, including the below described property, by Quitclaim Deed dated August 27, 2015 and recorded in Book 0501 page 512 in the RMC Office for Charleston County, South Carolina; and

WHEREAS, the below describe property should have been conveyed to the Commissioners of Public Works of the City of Charleston, South Carolina pursuant to a reverter clause contained in a Right-of-Way from the Commissioners of Public Works of the City of Charleston to the South Carolina State highway Department dated August 15, 1950 and recorded August 28, 1950 in Book U 51 page 623 in the RMC Office for Charleston County, South Carolina; and

WHEREAS, the City of Charleston has agreed to quitclaim the below property to the Commissioners of Public Works of the City of Charleston, South Carolina.

KNOW ALL MEN BY THESE PRESENTS that the CITY OF CHARLESTON ("Grantor"), in consideration of the sum of ONE and 00/100 (\$1.00) Dollars to the Grantor in hand paid by the COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF CHARLESTON, SOUTH CAROLINA at and before the sealing of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, quitclaimed and released, and by these presents does grant, bargain, sell, quitclaim and release, unto the said COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF CHARLESTON, SOUTH CAROLINA ("Grantee"), the following described property:

All that piece, parcel, or lot of land, situate lying and being in the City of Charleston, Charleston County, South Carolina designated "REVERTER PARCEL AS DEFINED BY C,H,I,J,D,C 0.164 ACRES" and shown as contained between the lines running between the points designated C, H, I, J, D and C on a plat entitled "PLAT SHOWING THE PROPERTY LINE ADJUSTMENT TMS PARCEL 459-06-01-072 & 459-06-01-071 AND NEW REVERTER PARCEL GRACE BRIDGE STREET & MORRISON DRIVE CITY OF CHARLESTON CHARLESTON COUNTY S.C." by Lewis Smith Moore P. L. S. No. 21621 of Forsberg Engineering and Surveying, Inc., dated February 9, 2017, revised October 23, 2017 and recorded on _____ in Plat Book _____ page _____ in the RMC Office for Charleston County, South Carolina. Said piece, parcel, or lot of land has such size, shape, dimensions, courses, distances, buttings and boundings as will by reference to said plat more fully appear.

ALSO

All that piece, parcel, or strip of land, situate lying and being in the City of Charleston, Charleston County, South Carolina and shown as contained between the lines running between the points designated S, C, D, E and S on a plat entitled "PLAT SHOWING THE PROPERTY LINE ADJUSTMENT TMS PARCEL 459-06-01-072 & 459-06-01-071 AND NEW REVERTER PARCEL GRACE BRIDGE STREET & MORRISON DRIVE CITY OF CHARLESTON CHARLESTON COUNTY S.C." by Lewis Smith Moore P. L. S. No. 21621 of Forsberg Engineering and Surveying, Inc., dated February 9, 2017, revised October 23, 2017 and recorded on _____ in Plat Book _____ page _____ in the RMC Office for Charleston County, South Carolina. Said piece, parcel, or lot of land has such size, shape, dimensions, courses, distances, buttings and boundings as will by reference to said plat more fully appear.

Being a portion of the premises which was conveyed to the Grantor by Quitclaim Deed of the South Carolina Department of Transportation dated August 27, 2015 and recorded in Book 0501 page 512 in the RMC Office for Charleston County, South Carolina.

TMS# a portion of 459-06-01-072

TOGETHER with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the Grantee hereinabove named and Grantee's successors and assigns forever so that neither the said Grantor nor Grantor's successors or assigns, nor any other person or persons, claiming under it or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

WITNESS the Grantor's hand and seal this ____ day _____ 201 ____.

IN THE PRESENCE OF:

CITY OF CHARLESTON

(WITNESS)

By: _____
John J. Tecklenburg
Its: Mayor

(WITNESS)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, _____, Notary Public for the State of South Carolina, do hereby certify that the City of Charleston by John J. Tecklenburg its Mayor personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this _____ day of _____, 201____.

Notary Public
State of South Carolina
My commission expires: _____

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

QUITCLAIM DEED

WHEREAS, at a meeting of the Commissioners of Public Works of the City of Charleston, held on the ____ day of April 2015, it was resolved to sell to the CITY OF CHARLESTON, the below described property; subject to the reverter, easements reserved, restriction and other matters set out below; and that Floyd K. Hill, Jr., its Chief Executive Officer, was authorized to execute a Quit Claim Deed in the name of the Commissioners of Public Works of the City of Charleston, and to deliver the same to the purchaser.

KNOW ALL MEN BY THESE PRESENTS that the COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF CHARLESTON, SOUTH CAROLINA ("Grantor"), in consideration of the sum of ONE and 00/100 (\$1.00) Dollars to the Grantor in hand paid by the CITY OF CHARLESTON, at and before the sealing of these presents, the receipt whereof is hereby acknowledged, and subject to the reverter, easements reserved, restriction and other matters set out below, has granted, bargained, sold, quitclaimed and released, and by these presents does grant, bargain, sell, quitclaim and release, unto by the CITY OF CHARLESTON, ("Grantee"), the following described property:

All that piece, parcel, or lot of land, situate lying and being in the City of Charleston, Charleston County, South Carolina designated "REVERTER PARCEL AS DEFINED BY C,H,I,J,D,C 0.164 ACRES" and shown as contained between the lines running between the points designated C, H, I, J, D and C on a plat entitled "PLAT SHOWING THE PROPERTY LINE ADJUSTMENT TMS PARCEL 459-06-01-072 & 459-06-01-071 AND NEW REVERTER PARCEL GRACE BRIDGE STREET & MORRISON DRIVE CITY OF CHARLESTON CHARLESTON COUNTY S.C." by Lewis Smith Moore P. L. S. No. 21621 of Forsberg Engineering and Surveying, Inc., dated February 9, 2017, revised October 23, 2017 and recorded on _____ in Plat Book _____ page _____ in the RMC Office for Charleston County, South Carolina. Said piece, parcel, or lot of land has such size, shape, dimensions, courses, distances, buttings and boundings as will by reference to said plat more fully appear.

Said piece, parcel, or lot of land, is here after referred to as "Property."

Being a portion of the premises which was conveyed to the South Carolina State Highway Department by Grantor by Right-of-Way dated August 15, 1950 and recorded August 28, 1950 in Book U 51 page 623 in the RMC Office for Charleston County, South Carolina which has now reverted to the Grantor pursuant to a reverter clause contained in said Right-of-Way. Also being a portion of the property conveyed to the Commissioners of Public Works of the City of Charleston by Quitclaim Deed of the City of Charleston dated _____ and recorded in Book _____ at page _____ in the RMC Office for Charleston County, South Carolina.

REVERTER

The above described Property is being conveyed by the Commissioners of Public Works of the City of Charleston, South Carolina to the City of Charleston to be used by the City of Charleston for a surface public parking lot. In the event, in the future, the Property is no longer used for a surface public parking lot by the City of Charleston, its successors or assigns, the title to the Property shall automatically revert to the Commissioners of Public Works of the City of Charleston, South Carolina.

RESERVING

Subject to and Reserving to the Commissioners of Public Works of the City of Charleston, South Carolina and its successors and assigns all of the easements and rights granted by the City of Charleston to the Commissioners of Public Works of the City of Charleston, South Carolina by Grant of Easements from the City Of Charleston to the Commissioners of Public Works of the City of Charleston, South Carolina dated September 27, 2016 and recorded September 30, 2016 in Book 0587 page 175 in the RMC Office for Charleston County, South Carolina.

RESTRICTION

The above described Property is being conveyed by the Commissioners of Public Works of the City of Charleston, South Carolina to the City of Charleston to be used by the City of Charleston for a surface public parking lot and subject to the restriction that neither the City of Charleston nor its successor or assigns shall construct, build or place any permanent structure over the surface of the above described Property.

TOGETHER with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the Grantee hereinabove named and Grantee's successors and assigns forever so that neither the said Grantor nor Grantor's successors or assigns, nor any other person or persons, claiming under it or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

WITNESS the Grantor's hand and seal this ____ day _____ 201 ____.

IN THE PRESENCE OF:

COMMISSIONERS OF PUBLIC WORKS OF
THE CITY OF CHARLESTON

(WITNESS)

By: _____
Floyd K. Hill, Jr.
Its: Chief Executive Officer

(WITNESS)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, _____, Notary Public for the State of South Carolina, do hereby certify that THE COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF CHARLESTON by Floyd K. Hill, Jr. its Chief Executive Officer personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this _____ day of _____, 201____.

Notary Public
State of South Carolina
My commission expires: _____

b.)

REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Colleen Carducci DEPT: BFRC

ADDRESS: 999 Morrison Drive

TMS: 461-13-01-038

PROPERTY OWNER: City of Charleston

ACTION REQUEST: Request approval to execute:

- a) the First Amendment to Lease Agreement with Charleston Digital Corridor extending the lease initial term and extended terms, and to allow for an increase in square footage and parking
- b) the License Agreement whereby the City will temporarily use property leased to Charleston Digital Corridor for a park-and-ride facility

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|--------------------------|-------------------------------------|
| Department Head | _____ | <input type="checkbox"/> |
| Legal Department | <i>James J. Cantrell</i> | <input type="checkbox"/> |
| Chief Financial Officer | _____ | <input type="checkbox"/> |
| Director Real Estate Management | <i>Colleen Carducci</i> | <input checked="" type="checkbox"/> |
| | _____ | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes ☐ No ☒

If yes, was funding previously approved?* Yes ☐ No ☐

*If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

***Commercial Property and Community & Housing Development have an additional form.**

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Colleen Carducci DEPT: BFRC

ADDRESS: 999 Morrison Drive

TMS: 461-13-01-038

PROPERTY OWNER: City of Charleston

ACTION REQUEST: Request approval to execute:

- a) the First Amendment to Lease Agreement with Charleston Digital Corridor extending the lease initial term and extended terms, and to allow for an increase in square footage and parking
- b) the License Agreement whereby the City will temporarily use property leased to Charleston Digital Corridor for a park-and-ride facility

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

ACTION: What action is being taken on the Property mentioned?

☐ **ACQUISITION** Seller (Property Owner) _____ Purchaser _____

☐ **DONATION/TRANSFER**
Donated By: _____

☐ **FORECLOSURE**
Terms: _____

☐ **PURCHASE**
Terms: _____

☐ **CONDEMNATION**
Terms: _____

☐ **OTHER**
Terms: _____

☐ **SALE** Seller (Property Owner) _____ Purchaser _____

☐ **NON-PROFIT ORG, please name** _____
Terms: _____

☐ **OTHER** _____

COMMERCIAL REAL ESTATE FORM

Terms: _____



LICENSE

Grantor

Charleston Digital
Corridor

Grantee

City of Charleston



PERMANENT

Terms: _____



TEMPORARY

Terms: _____

b) The License Agreement shall remain in effect until Charleston Digital Corridor has established a construction commencement and mobilization date for the construction of the Tenant Improvements as described in the Lease.



LEASE

Lessor:

City of Charleston

Lessee:

Charleston Digital
Corridor



INITIAL

Terms: _____



RENEWAL

Terms: _____



AMENDMENT

Terms: _____

a) The initial term will be 30 years, plus three, 23-year extensions beginning January 1, 2018. The City will allow up to 78,000 sq. ft. and 814 parking spaces for use.



Improvement of Property

Owner: _____

Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes



No



N/A

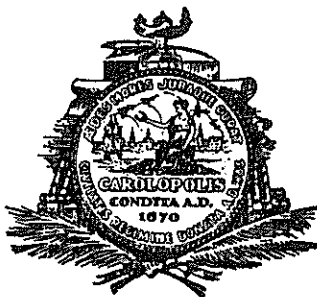


Results: _____

Signature: _____

Catherine Carducci
Director Real Estate Management

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.



Ratification
Number _____

A N O R D I N A N C E

AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY A FIRST AMENDMENT TO LEASE AGREEMENT PERTAINING TO THE LEASE AGREEMENT BETWEEN THE CITY AND THE CHARLESTON DIGITAL CORRIDOR FOUNDATION OF PROPERTY LOCATED AT 999 MORRISON DRIVE.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City a First Amendment to Lease Agreement pertaining to the Lease Agreement between the City and Charleston Digital Corridor Foundation of property located at 999 Morrison Dive, a copy of said First Amendment to Lease being attached to this Ordinance and made a part hereof.

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of _____
in the Year of Our Lord, 2018,
and in the ____th Year of the Independence of
the United States of America

John J. Tecklenburg, Mayor

ATTEST:

Vanessa Turner Maybank,
Clerk of Council

First Amendment to Lease Agreement

This First Amendment to Lease Agreement (this "Amendment") is made this ____ day of _____, 2018, by and between the City of Charleston as Landlord and the Charleston Digital Corridor Foundation as Tenant and amends that certain Lease Agreement entered into by and between Landlord and Tenant on January 19, 2016 (the "Lease"). All capitalized terms not otherwise defined herein have the meaning set forth in the Lease.

WHEREAS, the City and the CDC entered the Lease in 2016 to facilitate the development of a parking garage, a park and an office building for technology-related uses (the "Project") and the CDC is now ready to proceed; and

WHEREAS, the investors and lenders providing financing for the Project have presented some required changes to the Lease to make it financeable, and the parties have agreed to make the changes and modifications here to the Lease to facilitate construction of the Project.

1. Section 1.1 is hereby amended as follows:

The following sentences shall be added at the end of final paragraph:

"Notwithstanding the above timeline for plat completion and approval, the parties agreed to delay the completion of the Plat, and Tenant will commence preparation of the above-referenced plat during the predevelopment phase of the project, and the parties will mutually agree to the final form prior to recordation. The final plat will be recorded prior to any financial closing or financing of the Demised Premises. "

2. The first two sentences of Section 1.2 are hereby deleted and replaced with the following:

"TO HAVE AND TO HOLD for an initial term of thirty (30) years (the "Initial Term") plus three, twenty-three (23) year extensions (each an "Extended Term"), the Initial Term and Extended Term(s) are collectively referred to herein as the "Lease Term." The parties have agreed that Tenant has secured the requisite financing for the Project, and the Commencement Date is hereby established as January 1, 2018.

3. The first sentence of the last paragraph of Section 1.3 is hereby amended to delete the phrase "of ten (10) years each" and replaced with "of twenty-three (23) years each."

The last sentence of the last paragraph under Section 1.3 is hereby amended to insert the word "not" between "intention" and "to" and the following sentence is added and follows this last sentence. "The intent is for this Lease

to automatically renew unless Tenant elects not to renew and notifies Landlord in writing accordingly."

4. Section 1.4 is hereby amended by deleting from the first sentence of the second paragraph the words "Effective Date" and replacing them with the words "Commencement Date." Section 1.4 further amended by deleting from the sixth sentence of the first paragraph the words "Lease Commencement Date" and replacing them with the words "Effective Date". Section 1.4 is further amended by adding after the sixth sentence the following sentence:

"Landlord and Tenant acknowledge that Landlord has paid two (2) years of rent due for the Sub-Let Space."
5. Section 1.5 is hereby amended by deleting from the second sentence the words "all the terms and conditions of this Lease remaining to be fulfilled at the time said lease is executed."
6. Section 7.2(a) is hereby amended to delete the number "60,000" and replace it with "up to 78,000."
7. Section 7.2(b) is amended to add the following sentence at the end of the Section:

"Landlord and Mayor have approved the preliminary plans previously submitted. It is acknowledged that Tenant intends to revise and resubmit plans to include an extra story. Tenant shall so revise the plans and submit them to the BAR and other permitting authorities required by City regulations or ordinances within eight months of the Commencement Date."
8. The first and second sentences of Section 7.2(f) are hereby amended to delete the phrase "3 years from the Effective Date of this Lease," and be replaced with "18 months from the Commencement Date of this Lease."
9. Section 7.3(a) is hereby amended by the deletion of "728 spaces" and replaced with "728 to 814 spaces, as designated by Landlord, in tandem with the construction of the Pad 1 Building."
10. The first and second sentence of Section 7.3(f) are hereby amended to delete the phrase "3 years from the Effective Date of this Lease," and be replaced with "18 months from the Commencement Date of this Lease."
11. Section 9.1 is hereby amended to add the following sentence at the end of this Section:

"Notwithstanding any other provision herein, Tenant shall use its best efforts to source tenants for the Demised Premises that meet the technology-related

requirements. Such "best efforts" shall include published marketing materials, appropriate listings on commercial listing services, online bulletin boards and direct outreach to the technology community and local companies. If however, after applying such best efforts any space in the Demised Premises remains un-leased or unoccupied due to a lack of demand from technology-related tenants for whatever reason, then, after notifying the city of such event or change in circumstances, Tenant may expand its marketing and lease the vacant space to other tenants. However, when any such non-technology tenant lease expires or terminates, Tenant will continue to use best efforts to re-let this space to tenants meeting the above technology requirements. Further, Tenant may lease space on the ground floor to retail users and tenants that provide services, amenities and support for the tenants in the building as is customary in Class A office space."

12. The first sentence of Section 14.2 is hereby amended to read: "This Lease shall have a duration of thirty (30) years with three twenty-three (23) year extensions."

All other terms and conditions in the Lease will remain in full force and effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Amendment to be executed as of the date first written above.

TENANT:

CHARLESTON DIGITAL CORRIDOR

By: _____

Its: _____

LANDLORD:

CITY OF CHARLESTON

By: _____

Its: _____

WITNESSED:

WITNESSED:

STATE OF SOUTH CAROLINA

LICENSE AGREEMENT

COUNTY OF CHARLESTON

This License Agreement is made on the _____ day of _____, 2017 between the City of Charleston, a municipal corporation organized and existing under the laws of the State of South Carolina (the "City"), and Charleston Digital Corridor Foundation , a nonprofit corporation organized and existing under the laws of South Carolina (the "CDE").

RECITALS

A. The City is the record owner of certain real property located at 999 Morrison Drive (the "Property"), which Property has been leased by the City to CDC (the "Lease").

B. City desires to make use of the Property for a temporary period of time the purpose of operating therefrom a Park-and-Ride facility.

C. The CDC is in agreement that the Property may be uses for that purpose by the City subject to the conditions set forth in this agreement.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

SECTION ONE. LICENSE

The CDC does now grant to the City a license to use the Property subject to the terms hereafter set forth.

SECTION TWO. PURPOSE

During the term of this License, the City shall only use the Property for operating a Park-and-Ride facility.

SECTION THREE. CONDITION OF PROPERTY

The City accepts use of the Property As-Is, Where-Is. The CDC makes no representation as to the condition of the Licensed Real Property or its fitness for City's authorized use.

SECTION Four. OPERATIONS

City's operations at, and use of, the Property shall, at all times, comply with applicable laws, ordinances, rules and regulations.

SECTION FIVE. INSURANCE

The City shall cause the Property to be listed as insure premise on its casualty and liability insurance policies purchased through the Insurance Reserve Fund of the State of South Carolina. City acknowledges its responsibility for the negligent acts of its officials, officers and employees in accordance with S. C. Code § 15-78-10 *et seq*, the South Carolina Tort Claims Act.

SECTION SIX. UTILITY EXPENSES

The City shall be responsible for the payment of all expenses associated with water, sewer, electric, gas and other utility services incurred by the City due to its use of the Property.

SECTION SEVEN. IMPROVEMENTS

The City is authorized to make such improvements to the Property as may be required in it judgment to be necessary to render the Property suitable for a Park-and-Ride facility, including without limitation, the installation of wheel stops, the erection of fencing and the installation of lighting.

SECTION EIGHT. MAINTENANCE

During all times this License Agreement remains in effect, the City shall maintain the Property and improvements in good condition, and will keep all improvements thereon in good repair, to the satisfaction of the CDC.

SECTION NINE. CONSIDERATION

In consideration of the license granted in this Agreement, the City agrees to pay to the CDC of Five (\$5.00) Dollars.

SECTION TEN. TERM

This License Agreement shall remain in effect until such time as CDC has established a construction commencement and mobilization date for the construction of the Tenant Improvements as described in the Lease; provided however, and notwithstanding the foregoing, either party may terminate this License upon giving ninety (90) days' written notice to the other.

SECTION ELEVEN. NOTICE

Any notices given by either party to the other shall be hand delivered, or sent by ordinary mail, to the following respective addresses:

If to the City: Office of the Mayor, 80 Broad Street , Charleston, S.C., 29401, with a copy to City of Charleston Legal Department, 50 Broad Street, Charleston, 29401.

If to CDC: Director, Charleston Digital Corridor, 475 East Bay Street, Charleston, SC

SECTION TWELVE. ASSIGNMENT

This License is not assignable. The City may, however, enter into operation agreements with third parties in the use of the Property for a Park-and-Ride facility.

The parties have executed this License Agreement the day and year first set forth above.

The City of Charleston

Charleston Digital Corridor Foundation

By: _____

By: _____

John J. Tecklenburg

Its: _____

Mayor

C.)

REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Colleen Carducci DEPT: BFRC

ADDRESS: 999 Morrison Drive

TMS: 461-13-01-038

PROPERTY OWNER: City of Charleston

ACTION REQUEST: Request approval to execute the Temporary License Agreement for Park and Ride Operation whereby CARTA will operate a park and ride parking lot and provide shuttle service to and from 999 Morrison Drive and the Central Business District.

ORDINANCE: Is an ordinance required? Yes ☐ No ☒

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|-------------------------|-------------------------------------|
| Department Head | | <input type="checkbox"/> |
| Legal Department | <u>Ernest J. Condit</u> | <input type="checkbox"/> |
| Chief Financial Officer | | <input type="checkbox"/> |
| Director Real Estate Management | <u>Colleen Carducci</u> | <input checked="" type="checkbox"/> |
| | | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes ☐ No ☒

If yes, was funding previously approved?* Yes ☐ No ☐

*If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

*Commercial Property and Community & Housing Development have an additional form.

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Colleen Carducci DEPT: BFRC

ADDRESS: 999 Morrison Drive

TMS: 461-13-01-038

PROPERTY OWNER: City of Charleston

ACTION REQUEST: Request approval to execute the Temporary License Agreement for Park and Ride Operation whereby CARTA will operate a park and ride parking lot and provide shuttle service to and from 999 Morrison Drive and the Central Business District.

ORDINANCE: Is an ordinance required? Yes ☐ No ☒

ACTION: What action is being taken on the Property mentioned?

☐ **ACQUISITION** Seller (Property Owner) _____ Purchaser _____

☐ **DONATION/TRANSFER**

Donated By: _____

☐ **FORECLOSURE**

Terms: _____

☐ **PURCHASE**

Terms: _____

☐ **CONDEMNATION**

Terms: _____

☐ **OTHER**

Terms: _____

☐ **SALE** Seller (Property Owner) _____ Purchaser _____

☐ **NON-PROFIT ORG, please name** _____

Terms: _____

☐ **OTHER**

Terms: _____

COMMERCIAL REAL ESTATE FORM



LICENSE

Grantor
(Property Owner)

City of Charleston

Grantee

CARTA



PERMANENT

Terms: _____



TEMPORARY

Terms: _____

This Temporary License shall be on a month to month basis, provided the City may terminate for any reason upon 90-day notice.



LEASE

Lessor: _____

Lessee: _____



INITIAL

Terms: _____



RENEWAL

Terms: _____



AMENDMENT

Terms: _____



Improvement of Property

Owner: _____

Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes



No



N/A



Results: _____

Signature: _____

Colleen Carducci

Director Real Estate Management

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

NEED: Identify any critical time constraint(s).

| | | |
|-------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA |) | TEMPORARY LICENSE |
| |) | AGREEMENT FOR PARK |
| COUNTY OF CHARLESTON |) | AND RIDE OPERATION |

This Temporary License Agreement for Park and Ride Operation is made and entered into this _____ day of _____ 20__, (the "Effective Date") by and between the City of Charleston, a municipal corporation organized and existing pursuant to the laws of the State of South Carolina (herein the "City"), and Charleston Area Regional Transportation Authority (herein "CARTA").

WHEREAS, the City is the owner of that certain piece, parcel or tract of land located at 999 Morrison Drive and designated by Charleston County Tax Map No. _____ (herein the "City Property"); and

WHEREAS, CARTA intends to operate a Park and Ride Parking Lot (herein "Park and Ride") on the City Property and provide shuttle service to and from the City Property and the Central Business District; and

WHEREAS, to provide the shuttle service and related parking, CARTA has requested a temporary license from the City permitting the temporary use of a portion of the City Property for CARTA shuttle operation and related parking;

WHEREAS, the City is desirous of cooperating with CARTA and is minded to grant unto it a temporary construction license on a portion of the City Property for the purposes and uses as set forth below.

NOW, THEREFORE, in consideration of the sum of three (\$10.00) dollars, the receipt and sufficiency of which is acknowledged by the City, it is agreed as follows:

1. Temporary License: The City does hereby grant CARTA a temporary license to enter, occupy and utilize such portion of the City Property as described on Exhibit A, attached hereto and made a part hereof (herein "License Area"). CARTA accepts the License Area AS-IS, WHERE-IS.
2. Purposes and Limitations of Temporary License: CARTA, it employees and customers, shall have the right of ingress and egress to the License Area solely for purposes of parking and shuttle operations.
3. Term: This Temporary License shall be on a month to month basis, provided the City may terminate this License for any reason upon 90 days advance written notice to CARTA.

4. Condition of City Property: Upon termination of this Temporary License, CARTA shall leave the License Area in a clean condition, free of rubbish and debris and repair, replace or to compensate the City for any damage to the License Area or other portions of the City Property, to include trees, plants, grass, shrubs or other elements damaged or destroyed during the conduct of its activities in the License Area or City Property.
5. Insurance and Indemnification: At all times during this Temporary License, CARTA shall provide general liability insurance on the City Property, protecting against claims made for bodily injury (including death) and property damage that is alleged to have arisen from CARTA's operations on the City Property or the condition of the City Property. CARTA shall provide proof of such insurance prior to commencing its activities on the City Property. CARTA shall indemnify, hold harmless and defend the City, its officials, officers, employees and agents from and against any and all claims for injury or damage to person or property that arises from or is alleged to arise from the CARTA's use or occupancy of the License Area.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties have set their Hands and Seals the day and year above written.

WITNESSES

WITNESSES

CARTA

Name: _____

CITY OF CHARLESTON

By: _____
Its: _____

d.)

REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Frances Cantwell DEPT: Executive

ADDRESS: _____

TMS: _____

PROPERTY OWNER: City of Charleston

ACTION REQUEST: Request approval to execute the First Amendment to Public Infrastructure Improvements Agreement whereby extending the notice period when Ashley River Investors, LLC may terminate the current lease from 45 days to 36 months prior to the effective date of termination.

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|-------------------------|-------------------------------------|
| Department Head | _____ | <input type="checkbox"/> |
| Legal Department | <u>Frances Cantwell</u> | <input type="checkbox"/> |
| Chief Financial Officer | _____ | <input type="checkbox"/> |
| Director Real Estate Management | <u>Colleen Carducci</u> | <input checked="" type="checkbox"/> |
| _____ | _____ | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes ☐ No ☐

If yes, was funding previously approved?* Yes ☐ No ☐

*If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

*Commercial Property and Community & Housing Development have an additional form.

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Frances Cantwell DEPT: Executive

ADDRESS: _____

TMS: _____

PROPERTY OWNER: City of Charleston

ACTION REQUEST: Request approval to execute the First Amendment to Public Infrastructure Improvements Agreement whereby extending the notice period when Ashley River Investors, LLC may terminate the current lease from 45 days to 36 months prior to the effective date of termination.

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

ACTION: What action is being taken on the Property mentioned?

☐ **ACQUISITION** Seller (Property Owner) _____ Purchaser _____

☐ **DONATION/TRANSFER**
Donated By: _____

☐ **FORECLOSURE**
Terms: _____

☐ **PURCHASE**
Terms: _____

☐ **CONDEMNATION**
Terms: _____

☐ **OTHER**
Terms: _____

☐ **SALE** Seller (Property Owner) _____ Purchaser _____

☐ **NON-PROFIT ORG, please name** _____
Terms: _____

☐ **OTHER**
Terms: _____

☐ **EASEMENT** Grantor (Property Owner) _____ Grantee _____

COMMERCIAL REAL ESTATE FORM

☐

PERMANENT

Terms: _____

☐

TEMPORARY

Terms: _____

☐

LEASE

Lessor: _____

Lessee: _____

☐

INITIAL

Terms: _____

☐

RENEWAL

Terms: _____

☐

AMENDMENT

Terms: _____

☐

Improvement of Property

Owner: _____

Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes

☐

No

☐

N/A

☒

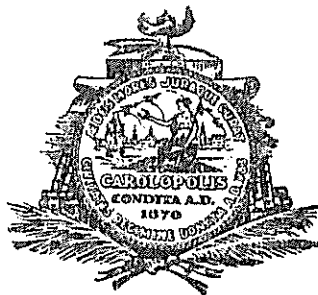
Results: _____

Signature: _____

Colleen Carducci

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

NEED: Identify any critical time constraint(s).



Ratification
Number _____

AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY A FIRST AMENDMENT TO THE PUBLIC INFRASTRUCTURE IMPROVEMENTS AGREEMENT WITH ASHLEY RIVER INVESTORS, LLC PERTAINING TO THE CONSTRUCTION AND FUNDING OF PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CHARLESTON NECK REDEVELOPMENT PROJECT AREA WITH TAX INCREMENT FUND BOND PROCEEDS AND TAX INCREMENT FUND REVENUES.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City a First Amendment to the Public Infrastructure Improvements Agreement with Ashley River Investors, LLC, which Agreement pertains to the construction and funding of Public Infrastructure Improvements, as set out in said Agreement, in the Charleston Neck Redevelopment Project Area with Tax Increment Fund Bond Proceeds and Tax Increment Fund Revenues, a copy of said First Amendment to the Public Infrastructure Improvements Agreement being attached hereto and incorporated herein by reference.

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of _____
In the Year of Our Lord, 20____, in
the _____ Year of the Independence of the
United States of America.

John J. Tecklenburg, Mayor

ATTEST:

Vanessa Turner Maybank,
Clerk of Council

FIRST AMENDMENT TO PUBLIC INFRASTRUCTURE IMPROVEMENTS
AGREEMENT

THIS FIRST AMENDMENT TO PUBLIC INFRASTRUCTURE IMPROVEMENTS AGREEMENT (this "*First Amendment*") is made effective as of the ____ day of _____, 2018 (the "*Effective Date*"), by and between the CITY OF CHARLESTON, SOUTH CAROLINA, a South Carolina municipal corporation (the "*City*"), and ASHLEY RIVER INVESTORS, LLC, a South Carolina limited liability company, its successors and assigns (collectively, the "*Developer*"). The City and the Developer are sometimes referred to individually as a "*Party*" and together as the "*Parties*" as the context may require.

RECITALS

1. The Parties entered into that certain Public Infrastructure Improvements Agreement (the "*PIIA*") on September 1, 2015, regarding the construction of and reimbursement for certain Public Infrastructure Projects, as defined in the PIIA; and
2. Section 5.18(iv) of the PIIA provides that the Developer shall provide written notice no later than forty-five days prior to the termination of that certain lease dated December 19, 2008, between the City and Ashley II of Charleston, LLC.
3. The Parties wish to extend the notice period to thirty-six months.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are incorporated into and made a part of this First Amendment.
2. Written Notice Period. Section 5.18(iv) of the PIIA is hereby amended to read as follows:
 - (iv) In addition, ARI may terminate the current lease dated December 19, 2008 between the City of Charleston and Ashley II of Charleston, LLC by providing written notice no later than thirty-six (36) months prior to the effective date of the termination; provided, however, if a final Certificate of Occupancy for the Public Works Facility has not been issued by the termination date, the lease shall not terminate until sixty (60) days after a final Certificate of Occupancy for the Public Works facility has been issued.
3. Effect. Terms and provisions of the PIIA that are not expressly modified by this First Amendment shall remain in full force and effect. All of the provisions of the PIIA unambiguously affected by this First Amendment shall be deemed amended, whether or not actually specified herein, if such amendment is clearly necessary to effectuate the intent of the Parties hereto. The PIIA, as modified hereby, is hereby ratified and approved in all respects.

4. Final Agreement. The PIIA, as amended by the First Amendment, represent the final agreement between the parties regarding the subject matter hereof and may not be contradicted by evidence of prior, subsequent or contemporaneous oral agreements of the parties. No amendment or modification hereto shall be valid and binding unless expressed in writing and executed by both parties hereto.
5. Counterparts. This First Amendment may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this First Amendment.
6. Severability. If any provision of this First Amendment is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this First Amendment and the PIIA shall nonetheless remain in full force and effect.
7. Applicable Law. This First Amendment is enforceable in the State of South Carolina and shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of South Carolina.
8. Captions. The section headings appearing in this First Amendment are for convenience of reference only and are not intended, to any extent for the purpose, to limit or define the test of any section or any subsection hereof.
9. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Second Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this First Amendment or any exhibits or amendments hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

WITNESSES:

**CITY OF CHARLESTON, SOUTH
CAROLINA**

By: _____
John Tecklenburg, Mayor

Attested to:

Vanessa Turner Maybank, Clerk of Council

WITNESSES:

ASHLEY RIVER INVESTORS, LLC,
a South Carolina limited liability company

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

By: _____
Mark E. Lewis
President and Chief Executive Officer

By: PLBC GP, LLC
a Georgia limited liability company
Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Harry E. Morgan
Manager

By: MAGNOLIA ATLANTIC
PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Richard H. Lee
Manager

e.)

REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Frances Cantwell DEPT: Executive

ADDRESS: _____

464-00-00-012, 464-00-00-029, 466-00-00-019, 466-00-00-028, 466-00-00-029, 466-00-00-030, 466-00-00-031,
466-00-00-035, 466-00-00-036, 466-00-00-049, 464-00-00-025, 464-00-00-026, 464-00-00-028, 464-00-00-039,
464-00-00-040, 464-13-00-013, 464-13-00-012, 464-13-00-011, 464-00-00-008, 464-13-00-023, 466-00-00-016,
466-00-00-017, 466-00-00-018, 466-00-00-032, 466-00-00-033, 466-00-00-034, 466-00-00-037, 466-00-00-044,
TMS: 466-00-00-046, 466-00-00-051, 460-00-00-002, 466-00-00-021, 464-14-00-136 AND 464-00-00-019

PROPERTY OWNER: _____

ACTION REQUEST: Request approval to execute the First Amendment to the Magnolia Development Agreement to include Ashley I, Ashley II, and the ARI Affiliates as parties to the Development Agreement, to reflect the current Property Owners with respect to the Magnolia Property, update the Development Schedule, reset the Commencement Date, and clarify certain other matters included in the Development Agreement.

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|----------------------------|-------------------------------------|
| Department Head | _____ | <input type="checkbox"/> |
| Legal Department | <i>Frances J. Cantwell</i> | <input type="checkbox"/> |
| Chief Financial Officer | <i>Amy Wharton</i> | <input type="checkbox"/> |
| Director Real Estate Management | <i>Colleen Carducci</i> | <input checked="" type="checkbox"/> |
| | _____ | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes ☐ No ☐

If yes, was funding previously approved?* Yes ☐ No ☐

*If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

***Commercial Property and Community & Housing Development have an additional form.**

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: December 19, 2017

FROM: Frances Cantwell DEPT: Executive

ADDRESS: _____

464-00-00-012, 464-00-00-029, 466-00-00-019, 466-00-00-028, 466-00-00-029, 466-00-00-030, 466-00-00-031,
466-00-00-035, 466-00-00-036, 466-00-00-049, 464-00-00-025, 464-00-00-026, 464-00-00-028, 464-00-00-039,
464-00-00-040, 464-13-00-013, 464-13-00-012, 464-13-00-011, 464-00-00-008, 464-13-00-023, 466-00-00-016,
466-00-00-017, 466-00-00-018, 466-00-00-032, 466-00-00-033, 466-00-00-034, 466-00-00-037, 466-00-00-044,

TMS: 466-00-00-046, 466-00-00-051, 460-00-00-002, 466-00-00-021, 464-14-00-136 AND 464-00-00-019

PROPERTY OWNER: _____

ACTION REQUEST: Request approval to execute the First Amendment to the Magnolia Development Agreement to include Ashley I, Ashley II, and the ARI Affiliates as parties to the Development Agreement, to reflect the current Property Owners with respect to the Magnolia Property, update the Development Schedule, reset the Commencement Date, and clarify certain other matters included in the Development Agreement.

ORDINANCE: Is an ordinance required? Yes ☒ No ☐

ACTION: What action is being taken on the Property mentioned?

☐ **ACQUISITION** Seller (Property Owner) _____ Purchaser _____

☐ **DONATION/TRANSFER**
Donated By: _____

☐ **FORECLOSURE**
Terms: _____

☐ **PURCHASE**
Terms: _____

☐ **CONDEMNATION**
Terms: _____

☐ **OTHER**
Terms: _____

☐ **SALE** Seller (Property Owner) _____ Purchaser _____

☐ **NON-PROFIT ORG, please name** _____
Terms: _____

☐ **OTHER**

COMMERCIAL REAL ESTATE FORM

Terms: _____

☐ **EASEMENT** | Grantor (Property Owner) _____ Grantee _____

☐ **PERMANENT** _____

Terms: _____

☐ **TEMPORARY** _____

Terms: _____

☐ **LEASE** Lessor: _____ Lessee: _____

☐ **INITIAL** _____

Terms: _____

☐ **RENEWAL** _____

Terms: _____

☐ **AMENDMENT** _____

Terms: _____

☐ **Improvement of Property**

Owner: _____

Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes ☐ No ☐ N/A ☒

Results: _____

Signature: _____

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

NEED: Identify any critical time constraint(s).



Ratification
Number _____

AN ORDINANCE

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY AND ASHLEY RIVER INVESTORS, LLC, ST. MATTHEWS LUTHERAN CHURCH AND THE BISHOP OF CHARLESTON PERTAINING TO LANDS LOCATED IN UPPER PENINSULA AREA OF THE CITY COMPRISING APPROXIMATELY 326 ACRES AND BEARING CHARLESTON COUNTY TAX MAP NUMBERS 464-00-00-012, 464-00-00-029, 466-00-00-019, 466-00-00-028, 466-00-00-029, 466-00-00-030, 466-00-00-031, 466-00-00-035, 466-00-00-036, 466-00-00-049, 464-00-00-025, 464-00-00-026, 464-00-00-028, 464-00-00-039, 464-00-00-040, 464-13-00-013, 464-13-00-012, 464-13-00-011, 464-00-00-008, 464-13-00-023, 466-00-00-016, 466-00-00-017, 466-00-00-018, 466-00-00-032, 466-00-00-033, 466-00-00-034, 466-00-00-037, 466-00-00-044, 466-00-00-046, 466-00-00-051, 460-00-00-002, 466-00-00-021, 464-14-00-136 AND 464-00-00-019.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City a First Amendment to the Development Agreement between the City and Ashley River Investors, LLC, St. Matthews Lutheran Church and the Bishop of Charleston pertaining to lands located in the upper Peninsula area of the City comprising approximately 326 acres and bearing Charleston County Tax Map Numbers 464-00-00-012, 464-00-00-029, 466-00-00-019, 466-00-00-028, 466-00-00-029, 466-00-00-030, 466-00-00-031, 466-00-00-035, 466-00-00-036, 466-00-00-049, 464-00-00-025, 464-00-00-026, 464-00-00-028, 464-00-00-039, 464-00-00-040, 464-13-00-013, 464-13-00-012, 464-13-00-011, 464-00-00-008, 464-13-00-023, 466-00-00-016, 466-00-00-017, 466-00-00-018, 466-00-00-032, 466-00-00-033, 466-00-00-034, 466-00-00-037, 466-00-00-044, 466-00-00-046, 466-00-00-051, 460-00-00-002, 466-00-00-021, 464-14-00-136 AND 464-00-00-019, a copy of said First Amendment to Development Agreement being attached to this Ordinance as Exhibit A and made a part hereof.

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of
_____ in the Year of Our Lord, 20__,
and in the ____nd Year of the Independence of
the United States of America

John J. Tecklenburg, Mayor

ATTEST:

Vanessa Turner Maybank,
Clerk of Council

FIRST AMENDMENT TO THE MAGNOLIA DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO THE MAGNOLIA DEVELOPMENT AGREEMENT (this "First Amendment") is made and entered into to be effective as of _____ day of _____, 20____, by and between the City of Charleston, a political subdivision of the State of South Carolina (the "City"); Ashley River Investors, LLC, a South Carolina limited liability company ("Ashley River"); Ashley I, LLC, a South Carolina limited liability company ("Ashley I"); Ashley II of Charleston, LLC, a South Carolina limited liability company ("Ashley II"); and the following affiliates or subsidiaries of Ashley River, all of which are South Carolina limited liability companies: Ashley River Investors I (Core Sound), LLC; Ashley River Investors III (Ashepoo), LLC; Ashley River Investors VI (Heriot St.), LLC; Ashley River Investors VII (Koppers), LLC; and Ashley River Investors IX (CPW), LLC (collectively, the "ARI Affiliates").

RECITALS:

WHEREAS, on or about January 16, 2016, the City and Ashley River, St. Matthews Lutheran Church, and the Bishop of Charleston entered into that certain Magnolia Development Agreement ("Development Agreement") incident to the future development of approximately three hundred and twenty-six (326) acres of real property, as further described in Exhibit "A" attached to the Development Agreement and defined therein as the "Real Property", which Development Agreement was recorded in the Office of the Register of Mesne Conveyances of Charleston County, South Carolina (the "RMC") in Volume 0530 at Page 704; and

WHEREAS, the Development Agreement provides that amendments can be made in whole or in part; and

WHEREAS, the Real Property includes the Magnolia Property (as defined in the Development Agreement) consisting of approximately one hundred eighty-two (182) acres of real property as more particularly described on Exhibit "A-1" and "A-2" attached to the Development Agreement; and

WHEREAS, the City, Ashley River, Ashley I, Ashley II and the ARI Affiliates desire to amend the Development Agreement as it relates solely to the Magnolia Property to include Ashley I, Ashley II, and the ARI Affiliates as parties to the Development Agreement, to reflect the current Property Owners with respect to the Magnolia Property, and to clarify certain other matters included in the Development Agreement; and

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this First Amendment, the receipt and sufficiency of such consideration being acknowledged by the parties and pursuant to the South Carolina Local Government Development Agreement Act, codified as S.C. Code Section 6-31-10 through 6-31-160, as amended, the parties to this First Amendment, intending to be legally bound, agree as follows:

1. Recitals. The recitals set forth above are incorporated herein by reference.
2. Definitions. Paragraph 2(v) of the Development Agreement is deleted in its entirety and replaced by the following:

(v) "Property Owner" means Ashley River Investors, LLC, a South Carolina limited liability company; Ashley I, LLC, a South Carolina limited liability company; Ashley II of Charleston, LLC, a South Carolina limited liability company; Ashley River Investors I (Core Sound), LLC, a South Carolina limited liability company; Ashley River Investors III (Ashepoo), LLC, a South Carolina limited liability company; Ashley River Investors VI (Heriot St.), LLC, a South Carolina limited liability company; Ashley River Investors VII (Koppers), LLC, a South Carolina limited liability company; Ashley River Investors IX (CPW), LLC, a South Carolina limited liability company; the City of Charleston; St. Matthews Lutheran Church; and the Bishop of Charleston, in each case together with all subsidiaries thereof that own a portion of the Real Property, their individual or corporate successors and any assignee, whereby such interest is assigned in writing pursuant to Section 27 of the Development Agreement, unless the context clearly implies a reference to a single Property Owner. Unless the context dictates otherwise, "Property Owner" hereinafter refers collectively to all of the Property Owners, their successors and/or assigns, including developers.
3. General Terms and Conditions. Paragraph 28(i) is deleted in its entirety.
4. Improvements Agreement. Paragraph 13(e) of the Development Agreement is deleted in its entirety and replaced by the following:

(e) The City and Ashley River agree and acknowledge that the Improvements Agreement is essential and integral to the development of the Magnolia Property, and is included herein to satisfy, in part, the requirements of § 6-31-60(A)(4) of the Act. Pursuant to and subject to the provisions of the Improvements Agreement, the City agrees to reimburse Ashley River from the Tax Increment Finance Revenue for the construction costs of the Facilities that will serve the development, a list of which is attached to the Improvements Agreement, attached hereto as Exhibit H. The City and Ashley River agree to use best efforts to satisfy the conditional requirements set forth in said agreement. The term of the Improvements Agreement shall continue for the longer of (i) the duration of this Agreement or (ii) until acceptance by the City of the final Facility to be constructed by Ashley River and receipt by Ashley River of reimbursement as contemplated by the Improvements Agreement. An assignment of rights under this Agreement alone shall not have the effect of automatically transferring rights under the Improvements Agreement or the Memorandum of Understanding and Agreement between the City and Ashley River dated September 1, 2015 (the "MOU") or otherwise entitling the assignee to reimbursement of costs from the Tax Increment Finance Revenue. Any transfer of rights under the Improvements Agreement or the MOU shall require an express assignment of such rights in writing and signed by the applicable assignor.
5. Amendments. The following is hereby added at the end of Paragraph 17 of the Development Agreement:

In the event that this Agreement is to be amended only with respect to certain portions and not all of the Real Property, such amendment shall require only the consent of the Property Owners with a legal and/or equitable interest in the portion of the Real Property affected by the amendment. Any amendment to this Agreement shall be recorded with the Charleston County Register of Mesne Conveyance within fourteen days following execution.

6. Assignment of Development Rights. The following is hereby added at the end of Paragraph 27(b)(iii) of the Development Agreement:

Property Owners that own portions of the Magnolia Property may transfer Vested Units (including residential units, commercial square footage, and hospitality hotel rooms) among portions of the Magnolia Property, provided that the affected Property Owners shall notify the City within fifteen (15) days of the transfer, provide the City copies of the applicable documents, and record the same in the office of the Charleston County Register of Mesne Conveyance.

7. Master POA. The first sentence of Paragraph 12(B) of the Development Agreement is deleted in its entirety and replaced by the following:

Prior to the construction of any improvements that would require a certificate of occupancy on the Magnolia Property, a Master Property Owner's Association ("MPOA") will be established for the Magnolia Property.

8. Effective Date. The "Effective Date" of the Development Agreement shall be the date of this First Amendment.

9. Exhibits. The City and the Property Owner acknowledge and agree that Exhibit C (Development Schedule) to the Agreement, is hereby deleted in its entirety and replaced with new Exhibit C attached to this First Amendment and incorporated herein by reference. The City and Property Owner further acknowledge and agree that the First Amendment to Public Infrastructure Improvements Agreement, attached hereto as Exhibit H-1 and incorporated herein by reference, shall be added to Exhibit H of the Agreement.

10. Notices. All notices to Ashley River, the Ashley River Affiliates, Ashley I and Ashley II under the Development Agreement shall be provided at the following addresses:

Ashley I

R. William Metzger, Jr., Esquire
Plan Administrator/Trustee for Ashley I, LLC
1301 Gadsden Street
Columbia, SC 29201

G. William McCarthy, Jr., Esquire
McCarthy, Reynolds & Penn, LLC
1517 Laurel Street (29201)
P. O. Box 11332

Columbia, SC 29211-1332

Ashley II

R. William Metzger, Jr., Esquire
Plan Administrator/Trustee
for Ashley II of Charleston, LLC
1301 Gadsden Street
Columbia, SC 29201

With copy to:

G. William McCarthy, Jr., Esquire
McCarthy, Reynolds & Penn, LLC
1517 Laurel Street (29201)
P. O. Box 11332
Columbia, SC 29211-1332

ARI and the ARI Affiliates

Ashley River Investors, LLC
201 Sigma Drive, Suite 400
Summerville, SC 29486
ATTN: Mark Lewis

With copy to:

George Bullwinkel, Esq.
Nexsen Pruet, LLC
205 King Street, Suite 400
Charleston, SC 29401

11. Effect. Terms and provisions of the Development Agreement that are not expressly modified by this First Amendment shall remain in full force and effect. All of the provisions of the Development Agreement unambiguously affected by this First Amendment shall be deemed amended, whether or not actually specified herein, if such amendment is clearly necessary to effectuate the intent of the parties hereto. The Development Agreement, as modified hereby, is hereby ratified and approved in all respects.
12. Final Agreement. The Development Agreement, as amended by the First Amendment, represents the final agreement between the parties regarding the subject matter hereof and may not be contradicted by evidence of prior, subsequent or contemporaneous oral agreements of the parties. No amendment or modification hereto shall be valid and binding unless expressed in writing and executed by both parties hereto.

13. Counterparts. This First Amendment may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this First Amendment.
14. Severability. If any provision of this First Amendment is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this First Amendment and the Development Agreement shall nonetheless remain in full force and effect.
15. Applicable Law. This First Amendment is enforceable in the State of South Carolina and shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of South Carolina.
16. Captions. The section headings appearing in this First Amendment are for convenience of reference only and are not intended, to any extent for the purpose, to limit or define the test of any section or any subsection hereof.
17. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this First Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this First Amendment or any exhibits or amendments hereto.

[SEPARATE SIGNATURE PAGES TO FOLLOW]

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

Witness

By: Mark E. Lewis
President and Chief Executive Officer

By: PLBC GP, LLC
a Georgia limited liability company
Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

Witness

By: Harry E. Morgan
Manager

By: MAGNOLIA ATLANTIC PARTNERS,
LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Richard H. Lee
Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that Mark E. Lewis, President and Chief Executive Officer of MWV-MAGNOLIA/ARC, LLC, the Director of Ashley River Investors, LLC, personally appeared before me this ____ day of _____, 20__, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires: _____

)

)

)

)

1

)

ASHLEY I, LLC

a South Carolina limited liability company

Witness

By:

R. William Metzger, Jr., Plan
Administrator/Trustee for the Ashley
Liquidating Trust

Witness

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF CHARLESTON)

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that R. William Metzger, Jr., as Plan Administrator/Trustee of the Ashley Liquidating Trust, personally appeared before me this ____ day of _____, 20__, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires: _____

ASHLEY II OF CHARLESTON, LLC
a South Carolina limited liability company

Witness

By:

R. William Metzger, Jr., Plan
Administrator/Trustee for the Ashley
Liquidating Trust

Witness

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF CHARLESTON)

I, _____, the undersigned Notary of the Public of the State of South Carolina,
do hereby certify that R. William Metzger, Jr., as Plan Administrator/Trustee for the Ashley Liquidating
Trust, personally appeared before me this ____ day of _____ 20__, and acknowledged the execution
of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires: _____

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

Witness

By: _____
Mark E. Lewis
President and Chief Executive Officer

Witness

By: PLBC GP, LLC
a Georgia limited liability company
Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

Witness

By: _____
Harry E. Morgan
Manager

Witness

By: MAGNOLIA ATLANTIC PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

Witness

By: _____
Richard H. Lee
Manager

Witness

[illegible]

ACKNOWLEDGMENT

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that Mark E. Lewis, President and Chief Executive Officer of MWV-MAGNOLIA/ARC, LLC, the Director of Ashley River Investors I (Core Sound), LLC, personally appeared before me this _____ day of _____, 20__, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires:

ACKNOWLEDGMENT

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

By: _____
Mark E. Lewis
President and Chief Executive Officer

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

By: Harry E. Morgan
Manager

By: MAGNOLIA ATLANTIC PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Richard H. Lee
Manager

ACKNOWLEDGMENT

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

By: _____
Mark E. Lewis
President and Chief Executive Officer

By: PLBC GP, LLC
a Georgia limited liability company
Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Harry E. Morgan
Manager

By: MAGNOLIA ATLANTIC PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Richard H. Lee
Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that Mark E. Lewis, President and Chief Executive Officer of MWV-MAGNOLIA/ARC, LLC, the Director of Ashley River Investors VI (Heriot St.), LLC, personally appeared before me this _____ day of _____, 20__, and acknowledged the execution of the foregoing instrument.

My Commission Expires: _____

ACKNOWLEDGMENT

Notary Public for South Carolina

[illegible]

ACKNOWLEDGMENT

Notary Public for South Carolina

NPCHAR1:2250468.1

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

By: _____
Mark E. Lewis
President and Chief Executive Officer

By: PLBC GP, LLC
a Georgia limited liability company
Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Harry E. Morgan
Manager

By: MAGNOLIA ATLANTIC PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Richard H. Lee
Manager

[illegible]

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that Mark E. Lewis, President and Chief Executive Officer of MWV-MAGNOLIA/ARC, LLC, the Director of ASHLEY RIVER INVESTORS VII (Koppers), LLC, personally appeared before me this _____ day of _____, 20____, and acknowledged the execution of the foregoing instrument.

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company
Its: Director

Witness

By: _____
Mark E. Lewis
President and Chief Executive Officer

Witness

By: PLBC GP, LLC
a Georgia limited liability company
Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

Witness

By: _____
Harry E. Morgan
Manager

Witness

By: MAGNOLIA ATLANTIC PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

Witness

By: _____
Richard H. Lee
Manager

Witness

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that Mark E. Lewis, President and Chief Executive Officer of MWV-MAGNOLIA/ARC, LLC, the Director of Ashley River Investors IX (CPW), LLC, personally appeared before me this _____ day of _____, 20____, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

ACKNOWLEDGMENT

My Commission Expires: _____

ACKNOWLEDGMENT AND CONSENT

The undersigned hereby acknowledges and consents to the FIRST AMENDMENT TO THE MAGNOLIA DEVELOPMENT AGREEMENT (this “First Amendment”) is made and entered into to be effective as of _____ day of _____, 20____, by and between the City of Charleston, a political subdivision of the State of South Carolina (the “City”); Ashley River Investors, LLC, a South Carolina limited liability company (“Ashley River”); Ashley I, LLC, a South Carolina limited liability company (“Ashley I”); Ashley II of Charleston, LLC, a South Carolina limited liability company (“Ashley II”); and the following affiliates or subsidiaries of Ashley River, all of which are South Carolina limited liability companies: Ashley River Investors I (Core Sound), LLC; Ashley River Investors III (Ashepoo), LLC; Ashley River Investors VI (Heriot St.), LLC; Ashley River Investors VII (Koppers), LLC; and Ashley River Investors IX (CPW), LLC (collectively, the “ARI Affiliates”).

SAINT MATTHEWS LUTHERAN CHURCH

Witness

By: _____
Name: _____
Its: _____

Witness

[illegible]

ACKNOWLEDGMENT

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that SAINT MATTHEWS LUTHERAN CHURCH, by _____, its _____, personally appeared before me this ____ day of _____, 20__, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires: _____

ACKNOWLEDGMENT AND CONSENT

The undersigned hereby acknowledges and consents to the FIRST AMENDMENT TO THE MAGNOLIA DEVELOPMENT AGREEMENT (this “First Amendment”) is made and entered into to be effective as of _____ day of _____, 20____, by and between the City of Charleston, a political subdivision of the State of South Carolina (the “City”); Ashley River Investors, LLC, a South Carolina limited liability company (“Ashley River”); Ashley I, LLC, a South Carolina limited liability company (“Ashley I”); Ashley II of Charleston, LLC, a South Carolina limited liability company (“Ashley II”); and the following affiliates or subsidiaries of Ashley River, all of which are South Carolina limited liability companies: Ashley River Investors I (Core Sound), LLC; Ashley River Investors III (Ashepool), LLC; Ashley River Investors VI (Heriot St.), LLC; Ashley River Investors VII (Koppers), LLC; and Ashley River Investors IX (CPW), LLC (collectively, the “ARI Affiliates”).

THE MOST REVEREND IGANTIUS A. REYNOLDS, as Bishop of Charleston, a Corporation
Sole

Witness

By:

The Most Reverend Robert E. Guglielmone,
As successor Bishop of Charleston

Witness

[illegible]

ACKNOWLEDGMENT

I, _____, the undersigned Notary of the Public of the State of South Carolina, do hereby certify that THE MOST REVEREND IGANTIUS A. REYNOLDS, as Bishop of Charleston, a Corporation Sole, by The Most Reverend Robert E. Guglielmone as successor Bishop of Charleston, personally appeared before me this ____ day of _____, 20__, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires:

EXHIBIT C DEVELOPMENT SCHEDULE

Magnolia Property Development Schedule

| Year | Actual Year | Residential Units (Units) | Office (Sq. Ft.) | Retail (Sq. Ft.) | Hospitality (Keys) |
|---------|--------------|------------------------------|---------------------|---------------------|-----------------------|
| 1 | 2019 | 358 | 125,000 | 30,000 | 0 |
| 2 | 2020 | 240 | 0 | 50,100 | 0 |
| 3 | 2021 | 478 | 210,000 | 0 | 0 |
| 4 | 2022 | 0 | 0 | 24,000 | 140 |
| 5 | 2023 | 540 | 175,000 | 15,600 | 0 |
| 6 to 10 | 2024 to 2028 | 1,184 | 340,000 | 23,200 | 550 |

*Timing is based on anticipated starts of projects

*Subject to change based on market demands

EXHIBIT H-1
FIRST AMENDMENT TO PUBLIC INFRASTRUCTURE IMPROVEMENTS AGREEMENT

[attached]

FIRST AMENDMENT TO PUBLIC INFRASTRUCTURE IMPROVEMENTS
AGREEMENT

THIS FIRST AMENDMENT TO PUBLIC INFRASTRUCTURE IMPROVEMENTS AGREEMENT (this "*First Amendment*") is made effective as of the ____ day of _____, 2018 (the "*Effective Date*"), by and between the CITY OF CHARLESTON, SOUTH CAROLINA, a South Carolina municipal corporation (the "*City*"), and ASHLEY RIVER INVESTORS, LLC, a South Carolina limited liability company, its successors and assigns (collectively, the "*Developer*"). The City and the Developer are sometimes referred to individually as a "*Party*" and together as the "*Parties*" as the context may require.

RECITALS

1. The Parties entered into that certain Public Infrastructure Improvements Agreement (the "*PIIA*") on September 1, 2015, regarding the construction of and reimbursement for certain Public Infrastructure Projects, as defined in the PIIA; and
2. Section 5.18(iv) of the PIIA provides that the Developer shall provide written notice no later than forty-five days prior to the termination of that certain lease dated December 19, 2008, between the City and Ashley II of Charleston, LLC.
3. The Parties wish to extend the notice period to thirty-six months.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are incorporated into and made a part of this First Amendment.
2. Written Notice Period. Section 5.18(iv) of the PIIA is hereby amended to read as follows:

(iv) In addition, ARI may terminate the current lease dated December 19, 2008 between the City of Charleston and Ashley II of Charleston, LLC by providing written notice no later than thirty-six (36) months prior to the effective date of the termination; provided, however, if a final Certificate of Occupancy for the Public Works Facility has not been issued by the termination date, the lease shall not terminate until sixty (60) days after a final Certificate of Occupancy for the Public Works facility has been issued.
3. Effect. Terms and provisions of the PIIA that are not expressly modified by this First Amendment shall remain in full force and effect. All of the provisions of the PIIA unambiguously affected by this First Amendment shall be deemed amended, whether or not actually specified herein, if such amendment is clearly necessary to effectuate the intent of the Parties hereto. The PIIA, as modified hereby, is hereby ratified and approved in all respects.

4. Final Agreement. The PIIA, as amended by the First Amendment, represent the final agreement between the parties regarding the subject matter hereof and may not be contradicted by evidence of prior, subsequent or contemporaneous oral agreements of the parties. No amendment or modification hereto shall be valid and binding unless expressed in writing and executed by both parties hereto.
5. Counterparts. This First Amendment may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this First Amendment.
6. Severability. If any provision of this First Amendment is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this First Amendment and the PIIA shall nonetheless remain in full force and effect.
7. Applicable Law. This First Amendment is enforceable in the State of South Carolina and shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of South Carolina.
8. Captions. The section headings appearing in this First Amendment are for convenience of reference only and are not intended, to any extent for the purpose, to limit or define the test of any section or any subsection hereof.
9. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Second Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this First Amendment or any exhibits or amendments hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

WITNESSES:

**CITY OF CHARLESTON, SOUTH
CAROLINA**

By: _____
John Tecklenburg, Mayor

Attested to:

Vanessa Turner-Maybank, Clerk of Council

WITNESSES:

ASHLEY RIVER INVESTORS, LLC,
a South Carolina limited liability company

By: MWV-MAGNOLIA/ARC I, LLC,
a Delaware limited liability company

Its: Director

By: _____
Mark E. Lewis
President and Chief Executive Officer

By: PLBC GP, LLC
a Georgia limited liability company

Its: Director

By: PLBC MANAGER, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Harry E. Morgan
Manager

By: MAGNOLIA ATLANTIC
PARTNERS, LLC
a Georgia limited liability company
Its: Co-Manager

By: _____
Richard H. Lee
Manager



f.)
Ratification
Number _____

AN ORDINANCE

TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 1 RIVERDALE DRIVE (0.26 ACRE) (TMS# 418-14-00-080), WEST ASHLEY, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 11. THE PROPERTY IS OWNED BY MAHO HOLDINGS LLC.

BE IT ORDAINED BY THE MAYOR AND THE MEMBERS OF CITY COUNCIL, IN CITY COUNCIL ASSEMBLED:

Section 1. As an incident to the adoption of this Ordinance, City Council of Charleston finds the following facts to exist:

A) Section 5-3-150, Code of Laws of South Carolina (1976) as amended, provides a method of annexing property to a city or town upon a Petition by all persons owning real estate in the area requesting annexation.

B) The City Council of Charleston has received a Petition requesting that a tract of land in Charleston County hereinafter described be annexed to and made a part of the City of Charleston, which Petition is signed by all persons owning real estate in the area requesting annexation.

C) The area comprising the said property is contiguous to the City of Charleston.

Section 2. Pursuant to Section 5-3-150, Code of Laws of South Carolina (1976) as amended, the following described property be and hereby is annexed to and made part of the City of Charleston and is annexed to and made part of present District 11 of the City of Charleston, to wit:

SAID PROPERTY to be annexed, 1 Riverdale Drive, (0.26 acre) is identified by the Charleston County Assessors Office as TMS# 418-14-00-080, including rights-of-way (see attached map), shown within the area annexed upon a map attached hereto and made a part hereof.

Section 3. This ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of _____ in the Year of Our Lord, 2018, in the _____ Year of the Independence of the United States of America.

By:

John J. Tecklenburg,
Mayor

Attest:

Vanessa Turner Maybank,
Clerk of Council

Annexation Profile

Parcel Address: 1 Riverdale Drive

Presented to Council: 12/19/2017

Status: Received Signed Petition

Owner Names: Maho Holdings LLC

Year Built: 1952

Parcel ID: 4181400080

Number of Units: 1

Number of Persons: 0

Race: Vacant

Acreage: 0.26

Mailing Address: 28 Rosedale Dr

Current Land Use: Residential

Address: Charleston, SC 29407

Current Zoning: R-4

Requested Zoning: SR-1

City Area: West Ashley

Recommended Zoning: SR-1

Subdivision: Avondale

Appraised Value: \$249,200.00

Council District: 11

Assessed Value: \$13,080.00

Within UGB: Yes

Stormwater Fees: 72.00

| | |
|-----------------------------------|---|
| Police | Located in existing service area - Team 4 |
| Fire | Located in existing service area - Station 10 |
| Public Service | |
| Sanitation | Located in existing service area. One additional stop. |
| Storm Water | Contiguous to existing service area. |
| Streets and Sidewalks | No additional City-maintained right-of-way |
| Traffic and Transportation | |
| Signalization | None |
| Signage | None |
| Pavement Markings | None |
| Charleston Water Systems | CWS service area. |
| Planning | |
| Urban Growth Line | Property is a developed site within the line. |
| City Plan (Century Five) | Development and zoning are consistent with the City Plan. |
| Parks | Already being served. |

Notes/Comments:

**City Plan
Recommendation:**

The existing development and proposed zoning is consistent with the City Plan.
Recommend annexation.

STATE OF SOUTH CAROLINA)
) PETITION FOR ANNEXATION
COUNTY OF CHARLESTON)

TO THE HONORABLE MAYOR AND CITY COUNCIL OF CHARLESTON

WHEREAS, SECTION 5-3-150 (3) Code of laws of South Carolina provides for the annexation of an area or property which is contiguous to a City by filing with the municipal governing body a petition signed by all persons owning real estate in the area requesting annexation, and

WHEREAS, the undersigned are all persons owning real estate in the area requesting annexation, and

WHEREAS, the area requesting annexation is described as follows, to wit:

SAID PROPERTY, located in West Ashley (approximately .26 acres) to be annexed is identified by the Charleston County Assessors Office as Property Identification Number: TMS# 418-14-00-080
(Address: 1 Riverdale Dr. Charleston SC 29407).

NOW, THEREFORE, the undersigned petition the City Council of Charleston to annex the above described area into the municipal limits of the City of Charleston.

Dated this 6th day of
December, 2016 17

FREEHOLDERS (OWNERS) SIGNED

DATE OF SIGNATURE

[Signature]
(Signature)
Justin Broome
(Print Name)

12/6/17
(Date)

(Signature)

(Date)

(Print Name)

City of Charleston Annexation Map

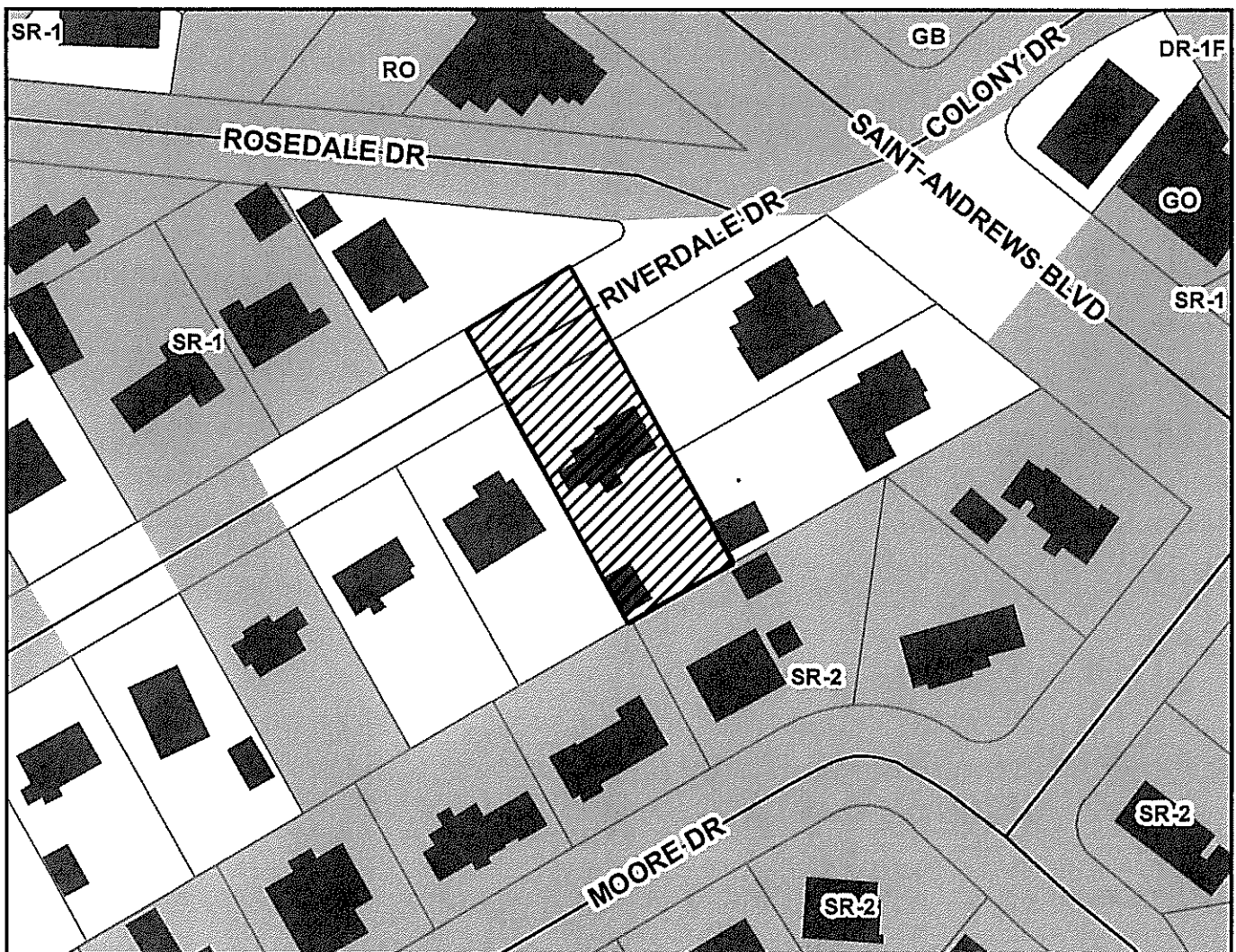
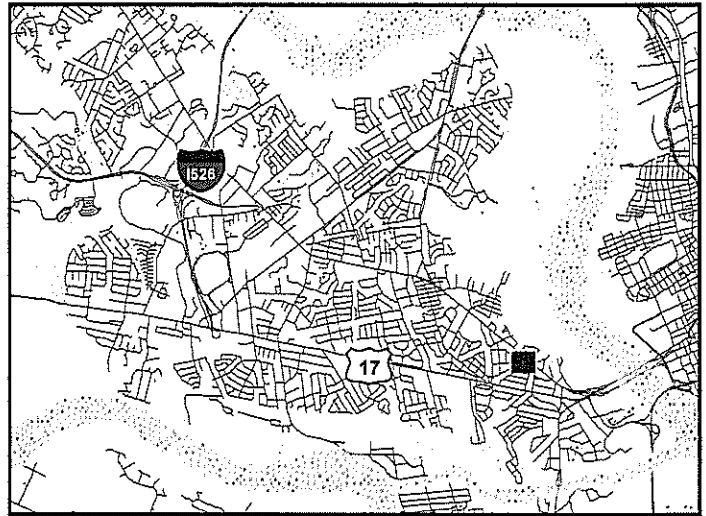
Parcel Address:
1 Riverdale Drive

TMS #:
4181400080

Acreage: 0.26

City Council District: 11

West Ashley



Subject Property



Corporate Limits
City of Charleston



Water

